

Marine Life Protection Act Initiative
Public Comments Submitted
through August 4, 2010

From: Megan Rocha
Sent: Wednesday, July 28, 2010 12:12 PM
To: Ken Wiseman
Cc: John Corbett
Subject: IRB Compliance Request

Hello Everyone, I hope this message finds you well. Please find attached the request for IRB compliance that was provided to the BRTF last week. This request is standard procedure for the Tribe when such research is conducted. Thanks so much and please feel free to contact me if you have any questions.

Much peace,

Megan Rocha
Acting Self-Governance Officer
Yurok Tribe
Klamath, CA 95548



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

July 20, 2010

North Coast Study Region
Blue Ribbon Task Force
C/O California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: Formal Request of Evidence of Institutional Review Board Compliance

There are research efforts underway that seek to collect data regarding subsistence, ceremonial, and customary activities of the Yurok Tribe and citizens for inclusion to the California Marine Life Protection Act Initiative (MLPAI) implementation process being undertaken on behalf of the State. This data collection effort is being lead by Satie Airamé, Science and Planning Advisory for the MLPAI and Policy Coordinator at the Marine Science Institute, University of California Santa Barbara (UCSB), with assistance from several UCSB graduate students.

On July 12, 1974, the National Research Act (Pub. L. 93-348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to identify the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and to develop guidelines which should be followed to assure that such research is conducted in accordance with those principles. In carrying out the above, the Commission was directed to consider: (i) the boundaries between biomedical and behavioral research and the accepted and routine practice of medicine, (ii) the role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects, (iii) appropriate guidelines for the selection of human subjects for participation in such research and (iv) the nature and definition of informed consent in various research settings.

In order to ensure that research is done with ethics and human dignity whenever human subjects participate, the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research developed broad ethical principles to provide a basis on which specific rules could be developed in 1978. These principles are discussed in *The Belmont Report*, which provides for three basic principles relevant to the ethics of research involving human subjects; Respect for Person, Beneficence, and Justice.¹

Compliance with policies that provide for protections for human subjects are mandated under Title 45 of the Code of Federal Regulations, Part 46, (45 CFR 46) and promulgated by the Federal Office for Human Research Protections at the U.S. Department of Health & Human Services. To assist researchers in determining whether research involving human subjects requires Institutional Review Board review, the Office for Human Research Protections (OHRP) has posted to its website a set of decision charts as graphical aids². These charts are enclosed for your convenience. The University of California has a specific policy related to the research of human subjects³ and Universities within the UC system have similar policies specific to their University, including UCSB.⁴

¹ The Belmont Report, Ethical Principles and Guidelines for the Protection of Human Subjects of Research (GPO 887-809)

² Human Subjects Regulations Decision Charts (September 24, 2004)

³ University of California Policy on Protection of Human Subjects (Office of the President, September 2, 1981).

⁴ UCSB Policy on the Use of Human Subjects, Research Circular No. D.2 (Revised February 1997).

As noted in the UCSB Policy on the Use of Human Subjects, "Researchers conducting research involving the use of human subjects conducted at or sponsored by the University of California, Santa Barbara shall be guided by the Basic Ethical Principles developed for the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and published in the Belmont Report..."⁵ This UCSB Policy, "applies to all research involving human subjects conducted at UCSB or by the UCSB faculty, students, or staff, whether funded or unfunded, and if funded regardless of source of funding."⁶

Given these factors, the Yurok Tribe requests the following:

1. Evidence of compliance with the UCSB Policy for the Use of Human Subjects, in accordance with 45 CFR 46, which should include proof of review and findings of the UCSB Human Subjects Committee as established and composed in accordance with 45 CFR 46.107 and other applicable Federal regulations for related research.
2. Evidence of similar compliance for all other researchers involved in this research from their related University and/or Institution.
3. That the North Coast Blue Ribbon Task Force request proof of compliance to ensure that the data collection research with Tribes is conducted ethnically and with adequate informed consent by the individuals and/or Tribes.

We thank you for your consideration of this serious matter and look forward to an immediate response.

Sincerely,

 7-20-10

Thomas O'Rourke, Chairman

Enclosed: Human Subjects Regulations Decision Charts (September 24, 2004)

cc: John McCamman, Director, Department of Fish and Game
Ken Weisman, Executive Director, MLPAI (email copy)
North Coast MLPA Master Plan Science Advisory Committee (email copy)

⁵ *Ibid.*

⁶ UCSB Policy on the Use of Human Subjects.

Human Subject Regulations Decision Charts

September 24, 2004

The Office for Human Research Protections (OHRP) provides the following graphic aids as a guide for institutional review boards (IRBs), investigators, and others who decide if an activity is research involving human subjects that must be reviewed by an IRB under the requirements of the U.S. Department of Health and Human Services (HHS) regulations at 45 CFR part 46. OHRP welcomes comment on these decision charts. The charts address decisions on the following:

- whether an activity **is research** that must be reviewed by an IRB
- whether the review may be performed by **expedited procedures**, and
- whether **informed consent** or its documentation may be waived.

Considerations

The charts are intended to assist IRBs, institutions, and investigators in their decision-making process and should not be used as substitutes for consulting the regulations. OHRP cautions that the full text of applicable regulatory provisions should be considered in making final decisions.

These charts are necessarily generalizations and may not be specific enough for particular situations. Other guidance documents are available related to specific topics, at [OHRP Policy Guidance by Topic](#). OHRP invites inquiries for additional information.

The charts do not address requirements that may be imposed by other organizations, such as the Food and Drug Administration, National Institutes of Health, other sponsors, or state or local governments.

Chart 1: Is an Activity Research Involving Human Subjects?

Chart 2: Is the Human Subjects Research Eligible for Exemption?

Chart 3: Does Exemption 45 CFR 46.101(b)(1) (for Educational Settings) Apply?

Chart 4: Does exemption 45 CFR 46.101(b)(2) or (b)(3) (for Tests, Surveys, Interviews, Public Behavior Observation) Apply?

Chart 5: Does Exemption 45 CFR 46.101(b)(4) (for Existing Data, Documents, Records and Specimens) Apply?

Chart 6: Does Exemption 45 CFR 46.101(b)(5) (for Public Benefit or Service Programs) Apply?

Chart 7: Does Exemption 45 CFR 46.101(b)(6) (for Food Taste and Acceptance Studies) Apply?

Chart 8: May the IRB Review Be Done by Expedited Procedures?

Chart 9: May the IRB Continuing Review Be Done by Expedited Procedures?

Chart 10: May Informed Consent Be Waived or Consent Elements Be Altered under 45 CFR 46.116(d)?

Chart 11: May Documentation of Informed Consent Be Waived Under 45 CFR 46.117(c)?

Chart 1: Is an Activity Research Involving Human Subjects Covered by 45 CFR part 46?

September 24, 2004

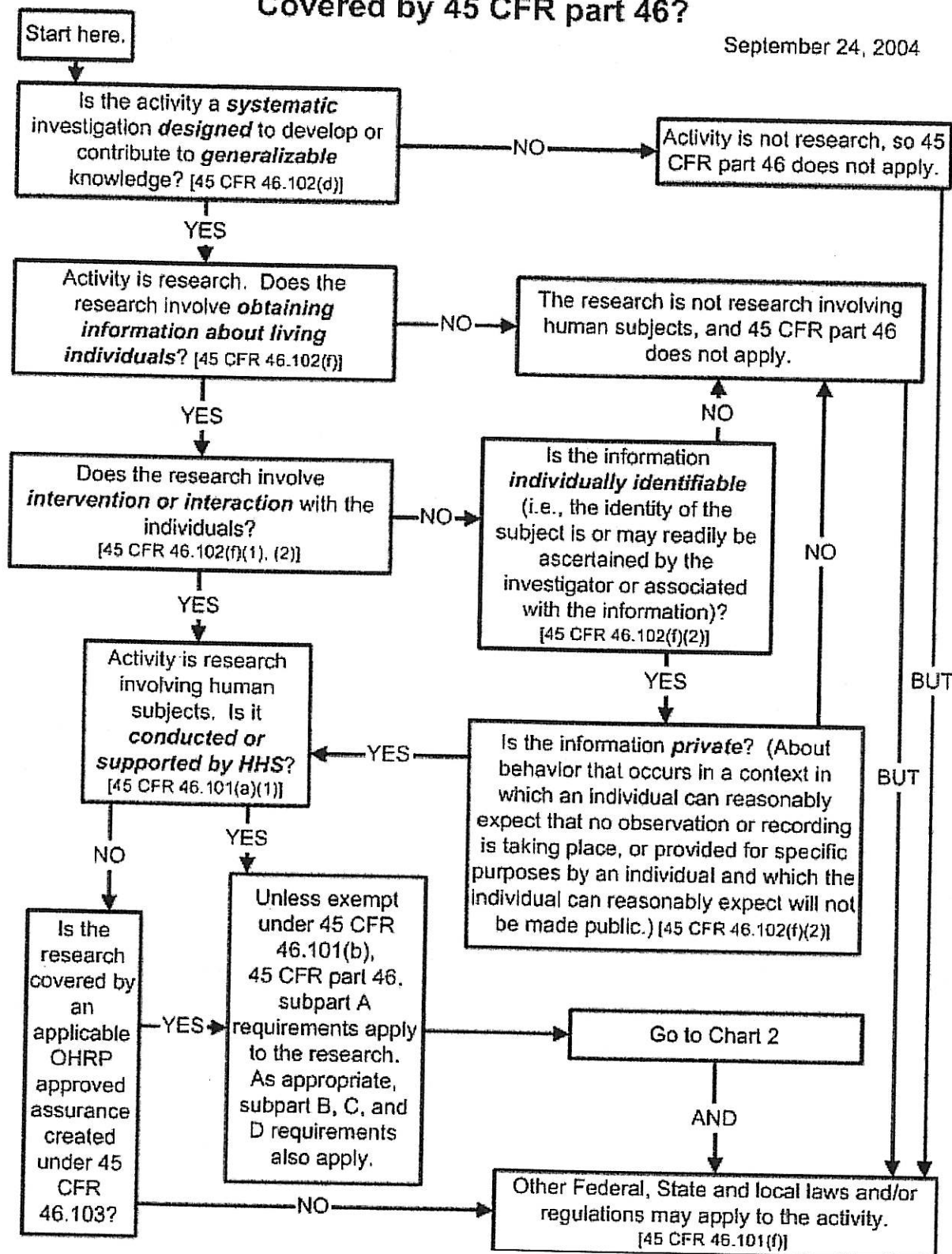


Chart 2: Is the Research Involving Human Subjects Eligible for Exemption Under 45 CFR 46.101(b)?

September 24, 2004

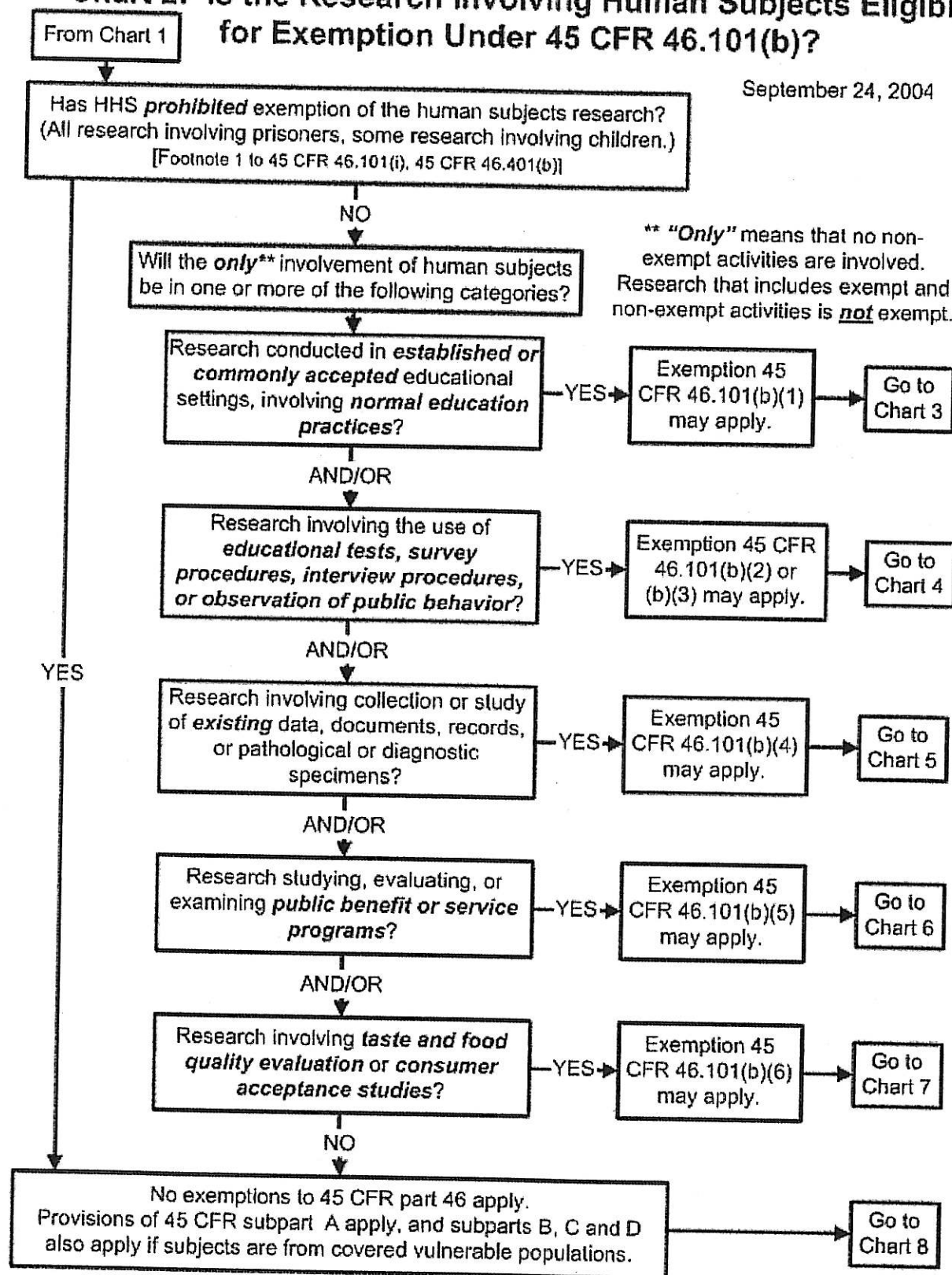
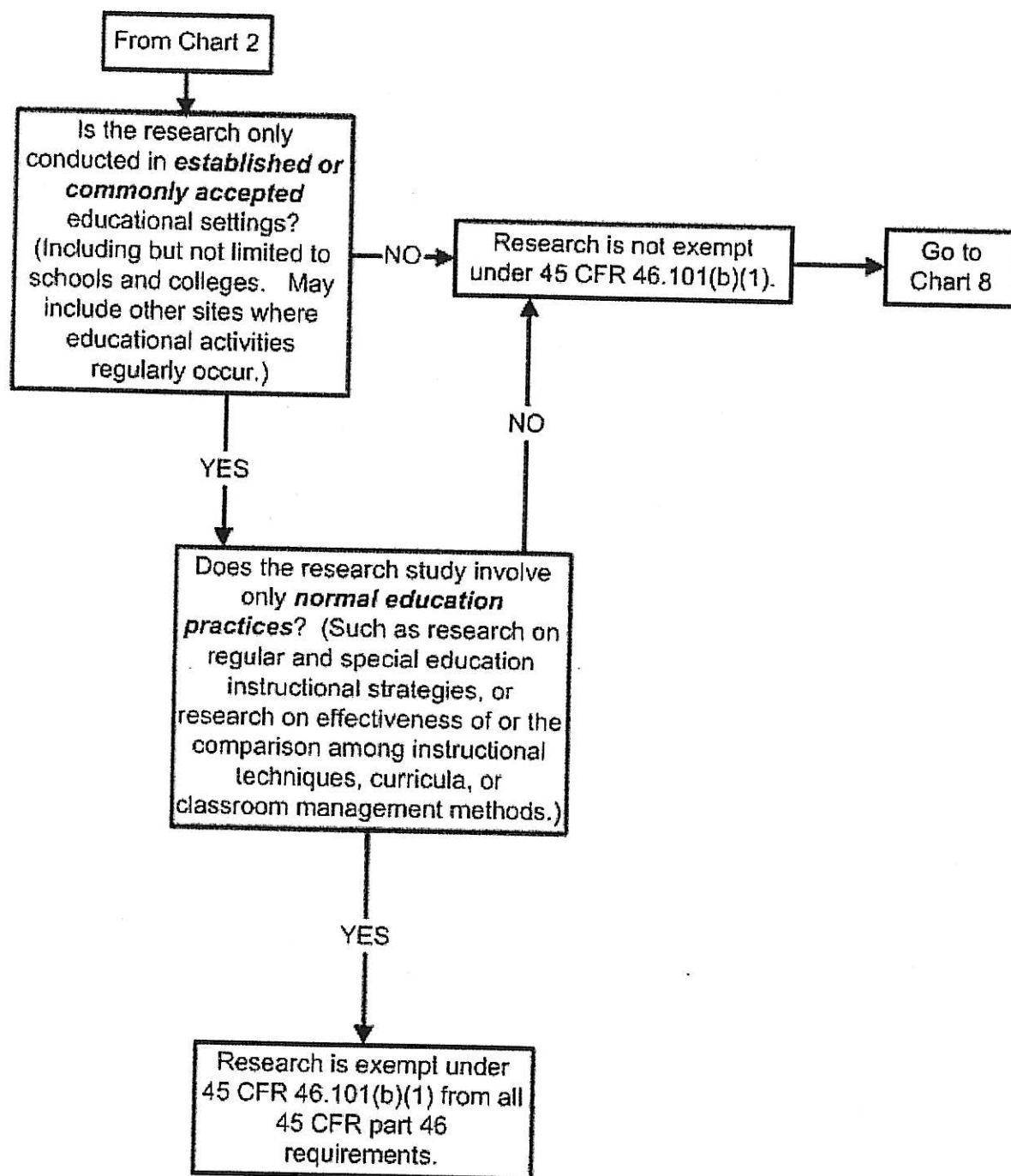
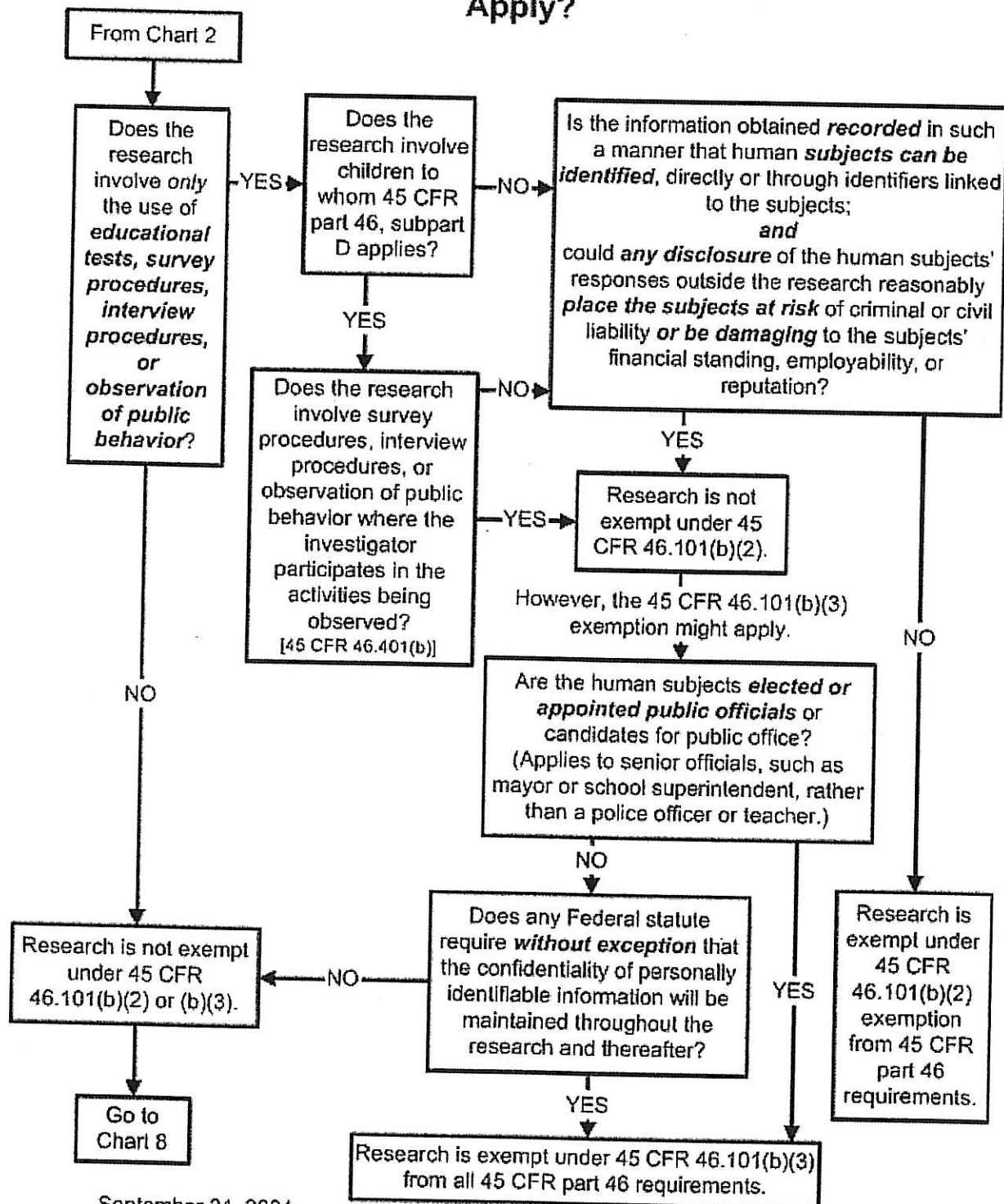


Chart 3: Does Exemption 45 CFR 46.101(b)(1) (for Educational Settings) Apply?



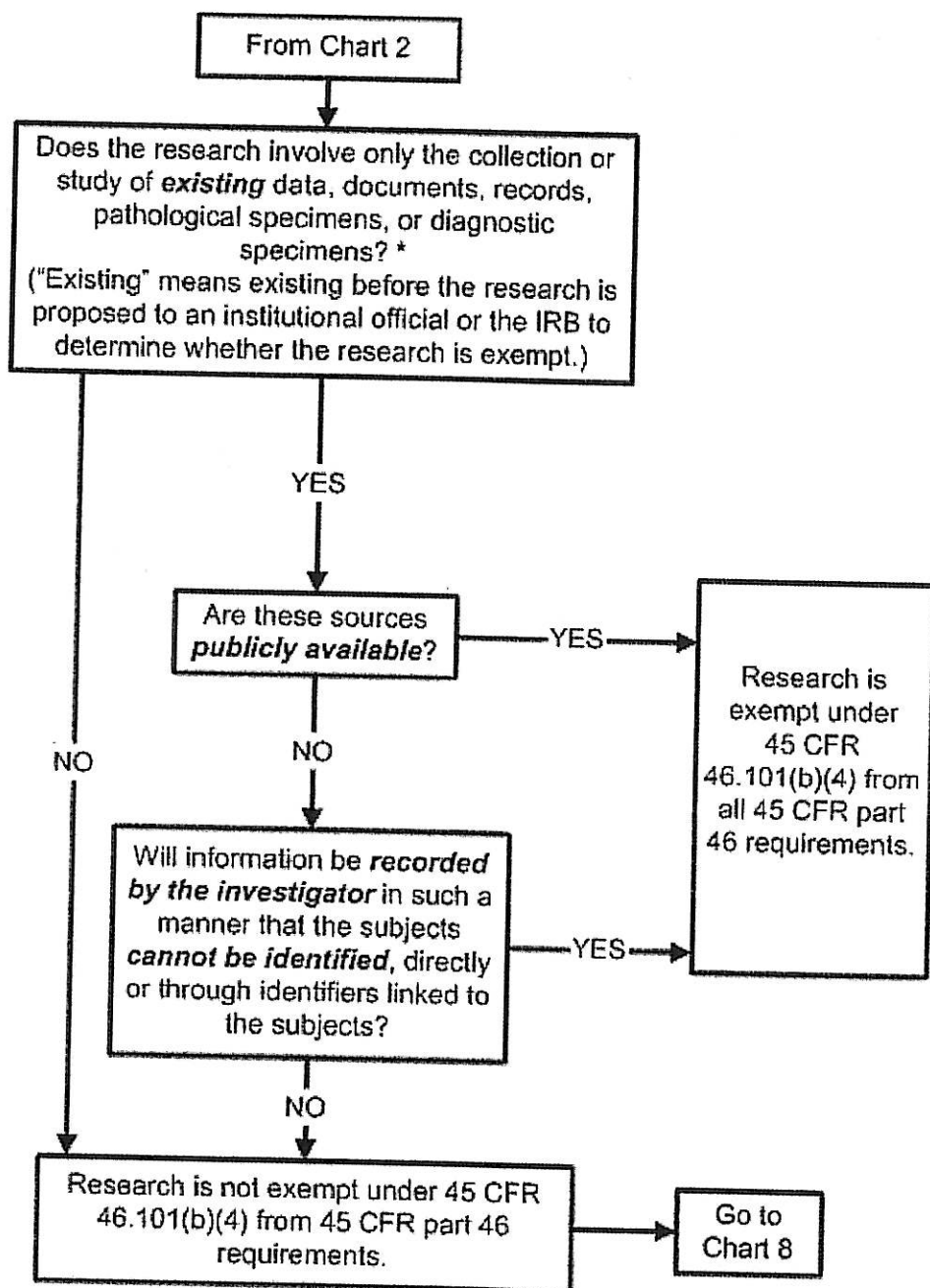
September 24, 2004

Chart 4: Does Exemption 45 CFR 46.101(b)(2) or (b)(3) (for Tests, Surveys, Interviews, Public Behavior Observation) Apply?



September 24, 2004

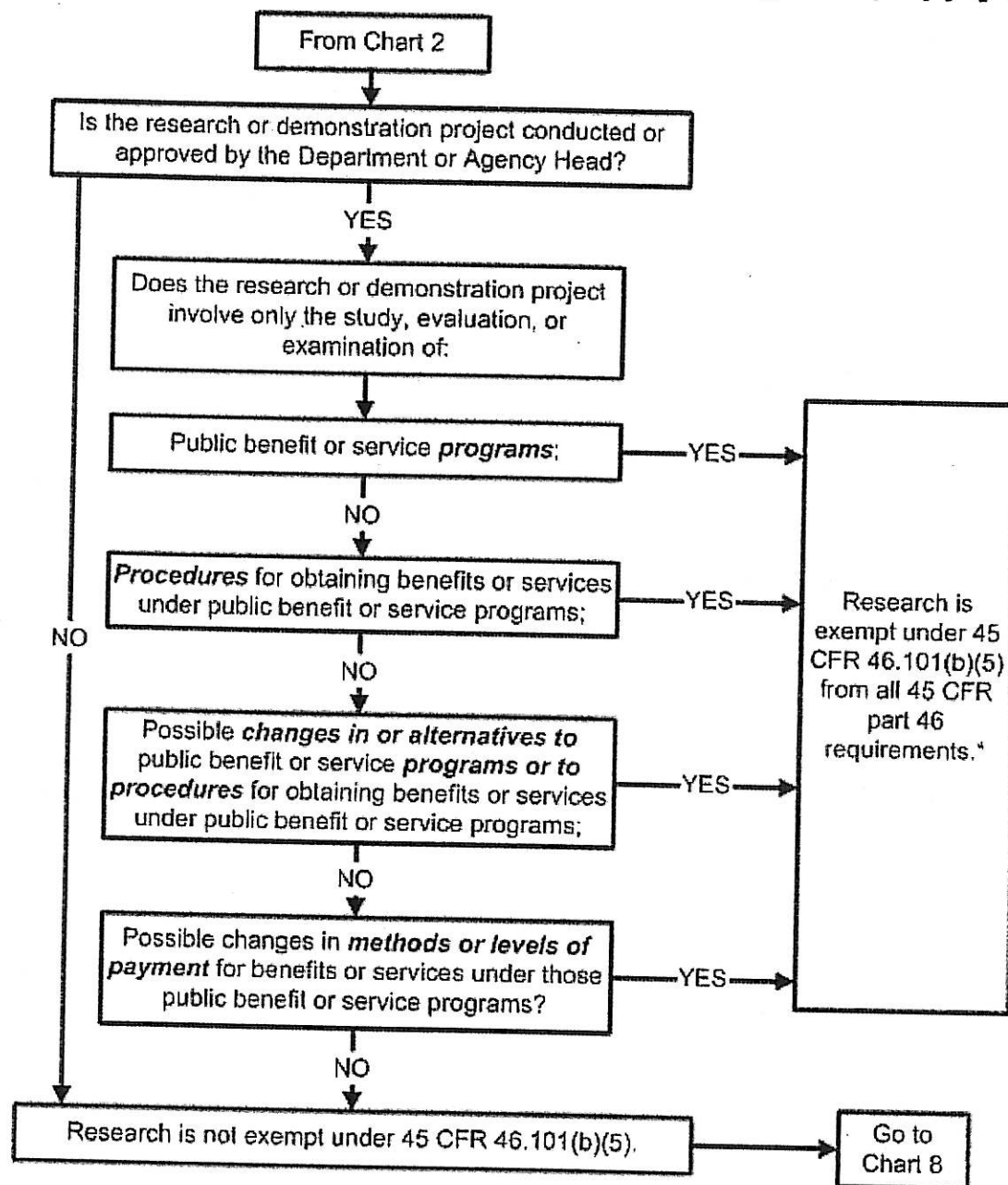
Chart 5: Does Exemption 45 CFR 46.101(b)(4) (for Existing Data Documents and Specimens) Apply?



* Note: See OHRP guidance on research use of stored data or tissues and on stem cells at <http://www.hhs.gov/ohrp/policy/index.html#tissues> and <http://www.hhs.gov/ohrp/policy/index.html#stem>, and on coded data or specimens at <http://www.hhs.gov/ohrp/policy/index.html#coded> for further information on those topics.

September 24, 2004

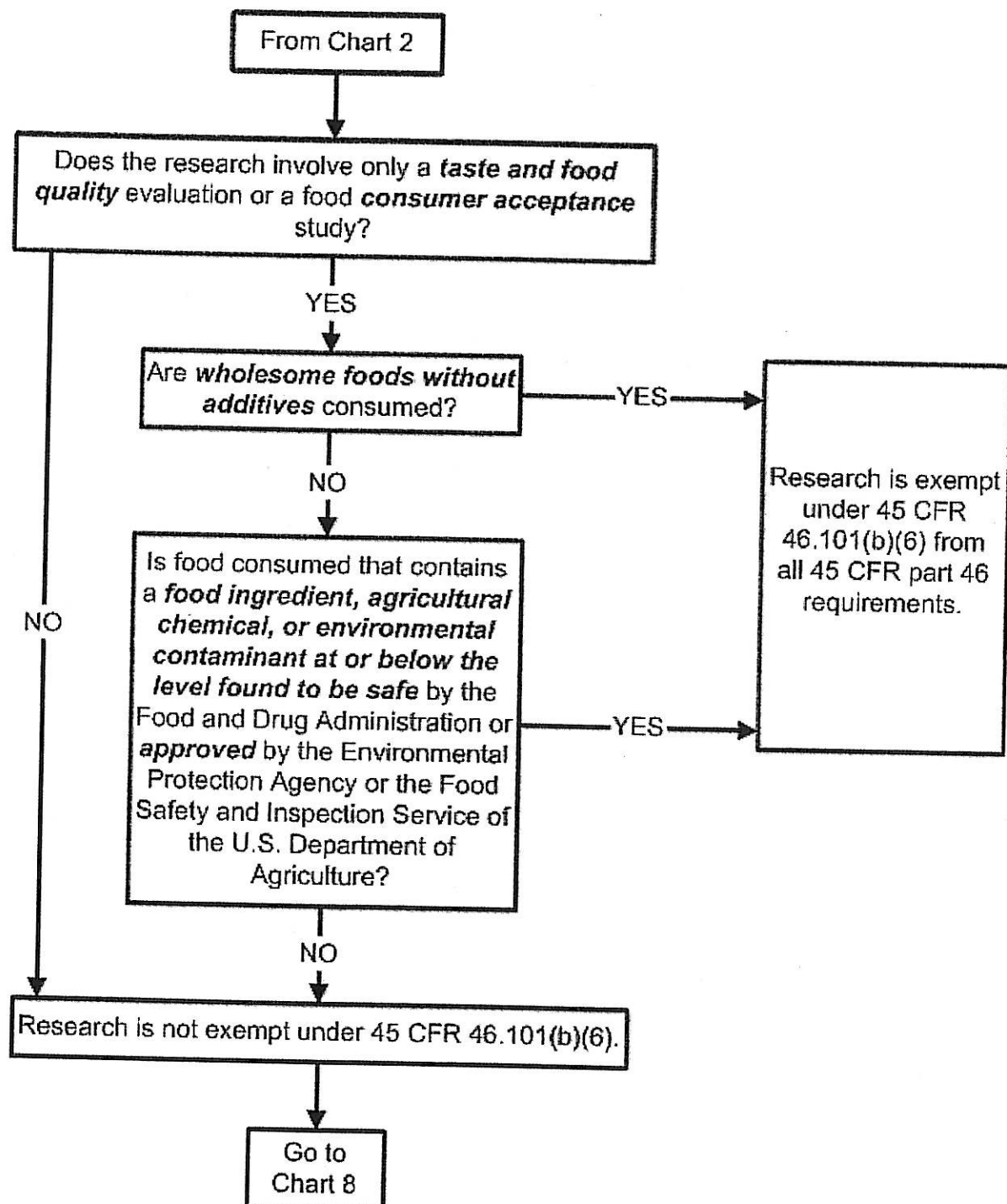
Chart 6: Does Exemption 45 CFR 46.101(b)(5) (for Public Benefit or Service Programs) Apply?



* Note: See OHRP guidance on exemptions at <http://www.hhs.gov/ohrp/policy/index.html#exempt> for further description of requirements for this exemption.

September 24, 2004

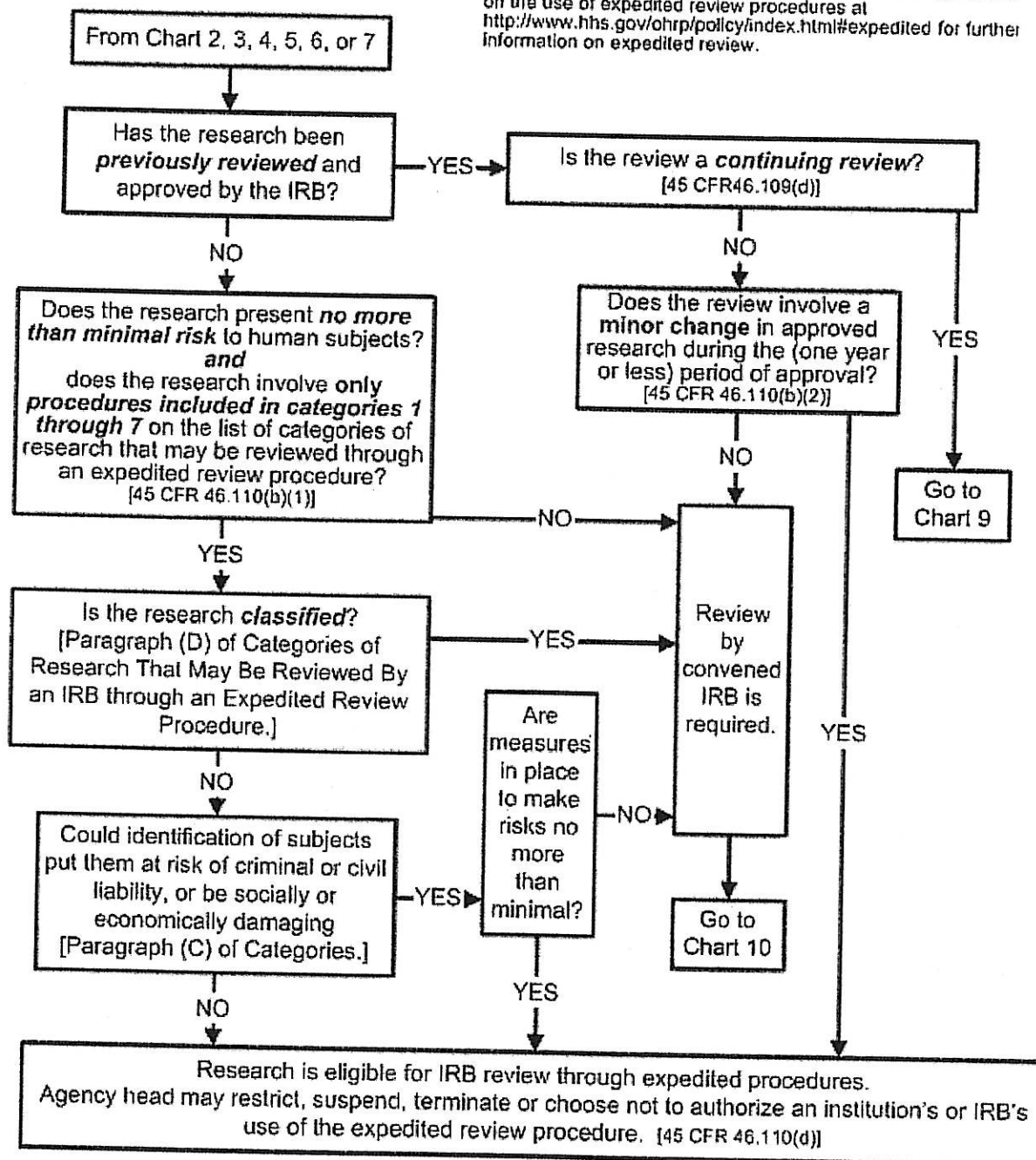
Chart 7: Does Exemption 45 CFR 46.101(b)(6) (for Food Taste and Acceptance Studies) Apply?



September 24 2004

Chart 8: May the IRB Review Be Done by Expedited Procedures Under 45 CFR 46.110?*

* Note: See expedited review categories and OHRP guidance on the use of expedited review procedures at <http://www.hhs.gov/ohrp/policy/index.html#expedited> for further information on expedited review.



September 24, 2004

* Note: See expedited review categories, OHRP guidance on the use of expedited review procedures and on continuing review at <http://www.hhs.gov/ohrp/policy/index.html#expedited> and #continuing for further information on expedited review.

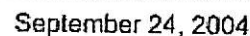
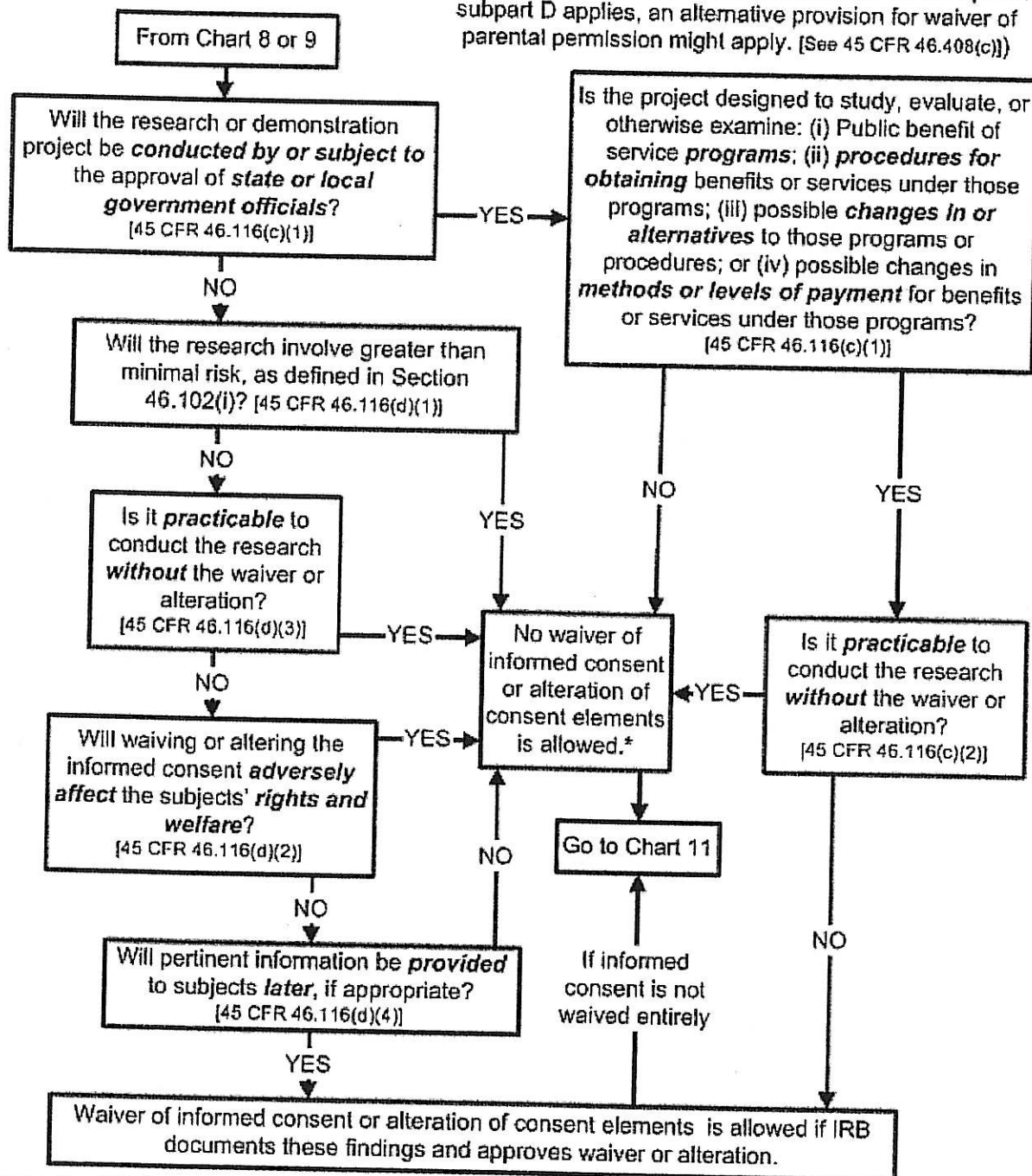


Chart 10: Can Informed Consent Be Waived or Consent Elements Be Altered Under 45 CFR 46.116(c) or (d)?**

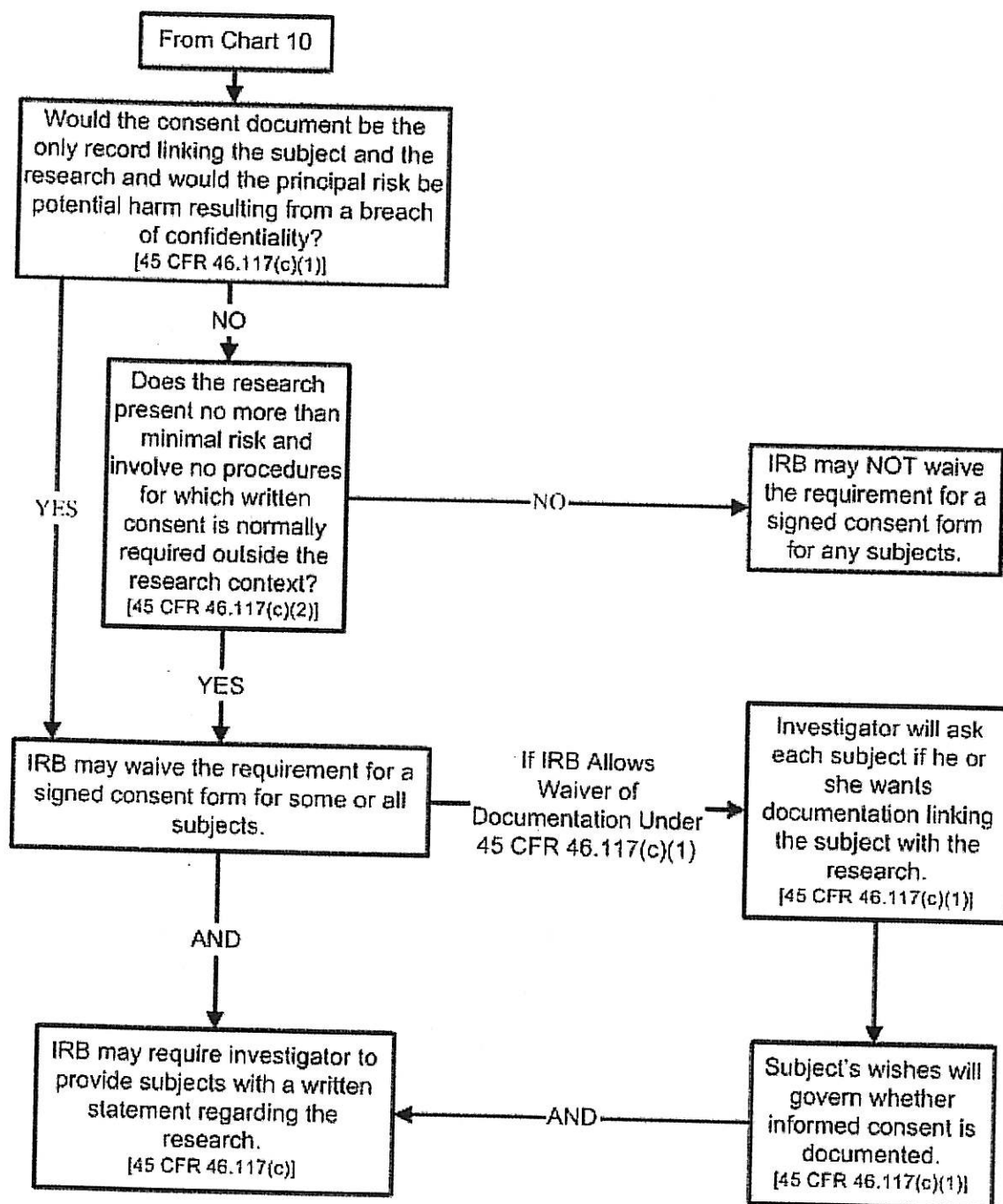
** (Note: If subjects include children to whom 45 CFR part 46, subpart D applies, an alternative provision for waiver of parental permission might apply. [See 45 CFR 46.408(c)])



* Note: See OHRP guidance on informed consent requirements in emergency research at <http://www.hhs.gov/ohrp/policy/index.html#emergency> for further information on emergency research informed consent waiver.

September 24, 2004

Chart 11: Can Documentation of Informed Consent Be Waived Under 45 CFR 46.117(c)?



September 24, 2004

Staff note: Ms. Sack was notified that the Jan 11 comment is included in a compilation of draft regional profile comments, the question about the list server was answered directly since it wasn't a comment, Richard Culp's comment is included in the compilation of Round 2 draft MPA proposal comments, and the MLPA Initiative office has no record of the July 8 comment.

From: Sue Sack

Sent: Wednesday, July 28, 2010 11:02 AM

To: MLPAComments

Cc: 'Talbot, Alison'; Todd Bruininks; 'Richard Culp'; 'Kevin B Mc Grath'

Subject: Formal request to post public comments made to against MPA implementation on the North Coast

PUBLIC COMMENT REGARDING THE MLPA PROCESS IN THE NORTH COAST
REGION

July 27, 2010

This is a formal complaint regaining bias when posting MLPAI public comments on the Fish and Game website. Please post this public comment on the Fish and Game website.

Through the public comment process I and other Shelter Cove residents have attempted to engage the MLPAI staff with comments related to proposed closures around the port of Shelter Cove, none of which were posted on the Fish and Game website as of July 27th, 2010. Nobody contacted me regarding my comments. The following are some examples of comments not being posted:

January 11, 2010

Hi:

The human use map of the Lost Coast does not have any depth references and does not include the huge area (RCA) already off-limits to hook and line commercial and recreational ground fish fishing. These areas are well over 50% of State waters on the Lost Coast. Could these areas be mapped and depth contours be layered directly on the data map?

Why is the canyon mapped as essential fish habitat? It is already closed to hook and line fishing for ground fish due to depth limitations on these fisheries. Is this designation due to State waters not having many examples of this type of habitat or is it that this habitat is in danger of being impacted in some way by hook and line fisheries? If the canyon becomes an MPA will the edges of the canyon also be included? Crabbers and other fishers will be highly impacted should closures be placed around the canyon edges.

Thanks,
Sue Sack

MLPA Comment for the North Coast Region

July 8th, 2010

To whom it my concern:

Shelter Cove is a small fishing community in Northern California that relies on **rod and reel sport and commercial fishing** as its main economic base. We have resident commercial day boat fishermen using small skiffs to reach local fish. Our harbor allows limited numbers of small boats to be launched daily with not only limited fishing ability but also they are limited by the distance they can safely travel to access fishing grounds as weather conditions are a challenge throughout the year.

Staff note: Ms. Sack was notified that the Jan 11 comment is included in a compilation of draft regional profile comments, the question about the list server was answered directly since it wasn't a comment, Richard Culp's comment is included in the compilation of Round 2 draft MPA proposal comments, and the MLPA Initiative office has no record of the July 8 comment.

El Nino causes northward movement of biomass and many marine species leave our waters to be mopped up by nets to the north of us, as happened to the yellow tail snapper in the late nineties or they die due to lack of nutrients. Marine Protected Areas cannot protect rock fish from temperature change and are therefore flawed as a tool for fishery management. Stocks must be controlled by measuring the available biomass for each fished species and then allotting a minimal allocation to only sustainable fishing fleets.

The general public doesn't want to eat farmed fish nor old, brown, smashed dragger fillets but they are demanding fresh, organic, genetically unaltered fish. Fish caught by draggers are globally marketed to the highest bidder; and as seen in the local stores we get what is left. Having a vibrant local fishing industry is good for the health and pocketbook of the California population. Live fish are in high demand and draggers cannot fill this market.

The buy-out program for trawlers that Leon Panetta touted as the answer to over-fishing only allowed bigger, newer trawlers to enter the fleet, did not reduce the allowable catch for trawlers and did nothing for the small hook and line fishermen but regulate them out of business. Mid water nets can now accurately skim over rocks and reefs without damaging their nets, allowing them to be trawled. These used to be natural sanctuaries with hook and line boats selectively catching only targeted fish but now even these are being heavily impacted.

The community of Shelter Cove is in itself a jewel and many people comment how few places are left in the States like the Cove. It would be criminal if the Cove was not treated as a special fishing place as man has been fishing here for thousands of years without unbalancing nature. Big business is changing this situation and I believe will try and obtain all the resources available through funding grants for government bureaucracy and using sound science to direct state fishing regulations to impact everybody but themselves. When the small hook and line fishermen are gone from state waters spatial planning has paved the way for aquaculture, mineral extraction, wave energy, ocean highways and other destructive industries.

Why should ecologically sound fishing techniques be phased out with only the larger **discard** boats eventually being able to reach fishable waters? The trawlers love the idea of closing shallower waters as these will act as areas that will replenish their over-fished stocks allowing them to carry on netting and destroying EVERYTHING outside of the marine reserves. Don't exempted fishing permits allow trawlers to fish in protected zones anyway?

Sue and Don Sack
Shelter Cove

July 15, 2010

Hi:

I received this message via the MLP AI - mlpainitiative-bounces@lists.ceres.ca.gov. Who authorized the release of my email address to private energy surveyors? How did a company get this information? Was the whole list released and why?

Please help the University of Connecticut with our research on alternative energy technologies that will help public facilities lower their energy costs. Complete this 5 minute survey linked below and you will learn:

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- Types of **alternative energy similar facilities** are using.
- What similar facilities are **paying for electricity**.
- What the **key roadblocks** are **to using alternative energy**.

If you have any questions or concerns about this survey contact Prof. Luke Weinstein at luke.weinstein@business.uconn.edu or (860) 728-2170. Survey results will be used in the aggregate. To receive our comprehensive research results leave your email address in the last question of the survey. Your email address will not be used for any other purposes. If you have received this message in error or it is a duplicate please disregard or forward to the appropriate party.

<http://www.zoomerang.com/Survey/?p=U2FT7NVXGRY7>

OPT OUT | [Learn More](#)

If you do not wish to receive further survey invitations from this sender, click the link below. Zoomerang will permanently remove you from this sender's survey invitation mailing list.

[I do not want to receive any more Zoomerang survey invitations from this sender.](#)

Thanks,
Sue Sack,

Here is yet another comment from another Shelter Cove resident not posted on the website:

June 22, 2010

Big Flat comment- I object to the Big Flat MPA proposed in the Sapphire Draft MPA Proposal 1 and 2. As a resident of Shelter Cove I spear fish and abalone dive near Big Flat. I have done so by boat and by foot. The remote location already limits access making it a trophy location for those few people capable of accessing this remote area. Weather conditions also make this area difficult to access. Closing this area will have no measurable benefit to marine resources as it cannot possibly be overused, but it will have a negative impact on the nearby residents, by further restricting our already limited access.

Process comment -I object to the splitting of Stakeholders into two groups. The Stakeholders were supposed to be a representative cross section of interests, each individual bringing a perspective to the process that taken as a whole may have been representative of the population at large. Splitting this group in half results in both groups having only half of the whole perspective. If you hired a baseball team with experts in each position it would make no sense to field a team of only infielders or only outfielders. This tactic, even if justified in some way, has the appearance of deliberate manipulation to weaken the chances of a single unified proposal being developed. Divide and conquer appears to be the primary purpose. Correct this problem by putting the stakeholder group back together for the third and final round of proposal development.

Richard Culp

Staff note: Ms. Sack was notified that the Jan 11 comment is included in a compilation of draft regional profile comments, the question about the list server was answered directly since it wasn't a comment, Richard Culp's comment is included in the compilation of Round 2 draft MPA proposal comments, and the MLPA Initiative office has no record of the July 8 comment.

These are not the only examples as there are other Shelter Cove people who say their comments have not posted. All seem to be against implementation of the MLPAL in some form or another.

Yours Sincerely,

Susan Sack,
Shelter Cove

From: Paul Pitino
Sent: Thursday, July 29, 2010 9:07 AM
To: MLPAComments
Subject:

Dear MLPA,

I support any and all protection of our Pacific Ocean.

Thanks for the work you are doing and thanks to the NEC for informing me of the meeting today @11:45@HSU Aquatic Center. Unfortunately I will not be able to attend.

Sincerely,

Paul Pitino

Arcata, CA 95518

**Statement of Priscilla Hunter
Chairwoman, InterTribal Sinkyone Wilderness Council**

Submitted to MLPAI North Coast Regional Stakeholder Group

July 29, 2010

Fort Bragg, California

My name is Priscilla Hunter. I am Chairwoman of the InterTribal Sinkyone Wilderness Council. Our member Tribes include: Cahto, Coyote Valley, Hopland, Pinoleville, Potter Valley, Robinson, Round Valley, Redwood Valley, Scotts Valley, and Sherwood Valley.

We thank the Stakeholders for all your hard work in developing MPA proposals that are designed to conserve and revitalize our precious marine ecosystems. We also applaud your efforts to incorporate traditional, non-commercial Tribal uses into the design of the new MPAs. It is absolutely vital to the Tribes of this region that their aboriginal rights to use marine resources are acknowledged and protected.

Our Council has provided extensive comment, presented position papers, developed legal opinions, and produced a 45-page Tribal Profile—all to affirm the Tribes' aboriginal rights must not be infringed upon or diminished by the MLPA Initiative process. We have played a leading role in formulating and developing supportive analyses of the reasons why the State should respect and acknowledge Tribal uses in setting up MPAs. We appreciate the Regional Stakeholder's support for the Tribes' rights to continue their traditional ways of life—as they have since the beginning of time—by ensuring Tribal uses are properly addressed in the MPAs you are designing.

Our Council now is in the process of developing a proposal on how the Round 3 MPAs should address Tribal uses. This proposal will soon be shared with you, the Science Advisory Team and the Blue Ribbon Task Force. Our proposal will address specific concerns and recommendations on how best to avoid interfering with traditional Tribal gathering areas from the proposed Big Flat MPA to the Navarro River MPA in the southern bioregion. We look forward to discussing this proposal with you in order to find mutually acceptable ways to incorporate the Council's ideas and concepts into your final recommendations to the Blue Ribbon Task Force.

As you know, the Tribes will never relinquish their rights to traditional cultural uses. It is in everyone's interest for the State to formally adopt a special category of "Tribal Use" regulations that address Tribal gathering activities which are legally and practically distinct from the "Commercial" or "Recreational" categories. "Tribal Use" is its own unique category. It is not a new category. From the Tribal perspective, it is the "Commercial" and "Recreational" categories that are new. The Tribes' traditional gathering practices are unique because of certain defining characteristics that, in the aggregate, are not present among other groups of people. Tribal gathering and related uses are Indigenous in nature; they are conducted for Tribal subsistence, and in a manner that is passed down through the generations; they are required for the health and wellbeing of Tribal members; they are intrinsic to the Tribes' ancient spiritual belief systems and religious practices; and they require a combination of gathering methods and Tribal knowledge that always have been utilized by Tribal peoples and no one else.

We ask you to continue to work with the Tribes to develop MPAs that meet their cultural protection concerns, while following the BRTF's July 22 Motion Regarding Round 3 and complying with the required science guidelines. We appreciate your

willingness to consider our recommendations regarding Tribal Uses as you enter the final stages of the Round 3 MPA proposals.

Thank you.

Conflicts of Interest/Corruption in the MLPAI

Dave Gurney
July 30, 2000
NCRSG meeting
Fort Bragg

So far, there are at least three major conflicts of interest in the MLPAI:

1. The \$18 million dollars of known investment by the Packard Foundation in the MLPAI will allow "scientists" unlimited take from MPA's with "scientific collection permits" - for so-called research and educational purposes. The Monterey Bay Aquarium qualifies for this exemption on licensing fees and oversight by DFG in activities where fish and wildlife are taken, since aquariums are considered "educational." But scientist/fishermen charge for "services" rather than the number of fish or animals taken, when these creatures are sold to aquariums. There are now significant numbers of large aquariums, public and private, all over the world, and little or no reasonable oversight on the above mentioned activities.
2. There is direct oil company involvement in the MLPAI "process," with the presence of Catherine Reheis-Boyd, on the so-called "Blue Ribbon Task Force." Boyd at one point in the Southern California region was chair of this "task force." The BRTF is simply a rubber stamp filter, making sure the needs of major private and corporate interests are met, despite the wishes of coastal residents on the lower tier "Regional Stakeholders Group." Many do not feel that the president of the Western States Petroleum Association is on the BRTF out of her voluntary concern for the ocean. She has been lobbying for more drilling off the coast, even after the recent Gulf Oil Disaster. She is there to look out for oil interests, in both the placement of no-fishing MPA's, and making sure MPA's do not interfere with oil and energy related plans or operations, now or in the future. We demand that she immediately step down from the BRTF.
3. The California Department of Fish and Game and Commission itself. This notoriously corrupt and inept regulatory body stands to hugely benefit from the MLPAI. Huge closed areas will require major investment in new vessels, equipment and personnel - making the DFG a virtual navy - to patrol and enforce MPA's. The opportunity and temptation for major corruption in granting the DFG power control over vast areas of ocean is undeniable. This agency, that within our lifetimes has mismanaged California fisheries into oblivion, will, if the MLPAI is enacted, take control of the ocean. However, the DFG should be dissolved and re-formed by a truly representative group, to create sustainable local fisheries.

Previous conflict of interest/corruption charges have been made against:

- Michael Sutton - sits on the CF&G Commission, while a board member of the Monterey Bay Aquarium. Scientific Collection Permit issues were raised, but no charges filed. Previously worked as programs officer for Packard Foundation.
- So. Cal. BRTF members Bill Anderson and Greg Schem. Both marina & real estate developers, they reportedly made an agreement to "sign off on everything else" as long as a reserve was not placed at Rocky Point, between Redondo Beach and Long Beach, where both had marinas and business interests.

Scientific Collecting Permits and the MLPA

(from the California Sea Urchin Commission Diver's Newsletter, March, 2010)

At the February 16th 2010 meeting of the Marine Resources Committee, the Department of Fish & Game presented an issue paper on the potential issues and conflicts with the scientific research and collection process, and the Marine Life Protection Act.

In its presentation, DFG noted that research and monitoring “play a critical role in management of MPA’s” adding that all MPA’s allow for “research, restoration and educational activities.” However, DFG noted that the master plan for the MLPA process did not provide guidance for managing research activities within the MPA’s.

DFG stated that, “a balance between ocean enjoyment and use, research and monitoring, and minimal disturbance must be struck” when determining MPA management decisions.

With the increasing number of MPA’s, interest in research proposals has already grown significantly, and this growth, in light of no consistent management, poses a problem: specifically, DFG is concerned about potential ecological impacts from unrestricted research and monitoring in MPA’s.

Because of this increasing pressure, DFG developed both a series of questions to guide decision making regarding scientific activities within MPA’s, and a series of questions (in draft form) to help determine whether or not to allow particular scientific research and monitoring activities.

In the short term, DFG recommended following the protocols it developed, with a special note to prohibit research and monitoring using trawls. In the long term, DFG recommended the department seek guidance from the MLPA Science Advisory Team, Monitoring Enterprise scientists, and DFG Commission staff to develop processes for managing science activities within MPA’s

Scientific Collecting - Another Issue

DFG has long issued scientific collectors permits to individuals collecting wildlife specimens for their own research or for research-employers. It is a violation to sell specimens taken with this permit; however, many collectors get around the prohibition by “charging for services” rather than charging for specimens. There is ample evidence that businesses collecting with this permit are selling their specimens.

For under \$60, a 2-year permit allows “researchers” to collect wildlife with any number of assistants. They get a permit by simply identifying their regular customers and/or explaining the ultimate scientific purpose (i.e. “scientific education”).

While a report is required to be submitted after the permit period indicating species types and numbers collected, many reports are never submitted, and the DFG doesn’t have sufficient enforcement staff to get them. In addition, the DFG admits it does not know how much of an impact scientific collecting has on many of the species collected.

More Evidence of MLPAI Corruption

On April 9, 2010 a public policy meeting was called by Roberta Cordero of the MLPAI's "Blue Ribbon Task Force," involving certain tribal representatives and their lawyers. This meeting was held in private, and no public records were kept.

The purpose of this meeting was apparently to discuss tribal rights issues relating to federal vs. state jurisdiction as it relates to the MLPAI.

Although the meeting was attended by representatives of the California Department of Fish and Game, and involved state public policy issues, since it was held on a Friday, no state facilities were available to facilitate the meeting. And although the MLPAI claims it was not an official MLPAI meeting, key staff members from the MLPAI team were present at this meeting.

Furthermore, the Resources Legacy Fund Foundation reportedly financed the meeting, by paying for a private meeting room at the Clarion Hotel Mansion Inn Terrace Room in Sacramento, California. Tribes willing to attend this meeting were reportedly offered a \$500 stipend, two free rooms, and a free dinner and breakfast.

Nothing about what happened at this meeting has been made public, and offers were apparently made to maintain confidentiality.

This is another egregious example of blatant corruption, illegal privately funded influence on governmental activities, and violations of California State open meeting laws.

JIM MARTIN
EXTERNAL ARRAY
SUBMITTED 7/30/10

Habitat spacing

Habitat	Max Gap	2nd Max Gap
Beaches	111.4	76.5*
Rocky Shores	60.4	52.3*
Kelp	159.8 (115)	52.3*
Hard 0-30 M proxy	159.8	52.3*
Hard 30-100 M	60.4	52.3*
Hard 100 M+	115.7 (110)	101.5*
Soft 0-30 M proxy	76.5*	60.4
Soft 30-100 M	76.5*	67.3
Soft 100 M+	115.7 (95)	76.5*

Habitat replication

Habitat	North region	South Region
Beaches	1	1
Rocky Shores	2	2
Kelp	0	1
Hard 0-30 M proxy	0	1
Hard 30-100 M	2.5	2.5
Hard 100 M+	0.5	0.5
Soft 0-30 M proxy	2	2
Soft 30-100 M	1.5	2.5
Soft 100 M+	0.5	2.5

Rationale

Here we propose a collaborative approach to adaptive management of Marine Conservation Areas (as distinct from Marine Reserves) focused on sea urchins. This approach involves collaboration with commercial sea urchin divers and the Department of Fish and Game.

Species within Marine Conservation Areas have been assigned “levels of protection” that depend on the potential impact that they might have on other members of the kelp forest community (ref). Species with high levels of protection may be harvested based on the assumption that such harvest will have little or no impact on habitat or other species in the system (Carr, November 2008). Sea urchins have been assigned a moderate to low level protection, based on the results of many studies that have documented the role sea urchins play in the kelp forest food webs, in particular their function as prey species for top predators and their ability to graze on macroalgae and create mosaics of “sea urchin barrens”. What most studies fail to recognize is that sea urchin densities even under the most extreme rates of human exploitation occur at much higher densities than in more “natural” situations subject to predation by sea otters, the top predator in systems where sea otters occur at abundances approximating those of conditions preceding the near extirpation of sea otters by hunting during the late 19th and early 20th centuries. On this basis, one might argue that adaptive management would involve reducing sea urchin abundances to levels found in areas with healthy sea otter populations. It certainly argues for removing sea urchins that occur in abundances capable of significantly reducing macroalgal populations.

Design Considerations

If we accept that it is reasonable to adaptively manage sea urchins in Marine Conservation Areas we would want to know the triggers for such management, details of management (sizes and quantities of urchins harvested), and details of the collaboration between commercial urchin divers and the Department.

Triggers – There are findings in the past (e.g. Leighton 1971ⁱ; North 1974ⁱⁱ) that have estimated the densities of sea urchins that are capable of eliminating all macroalgae. The problem with using these numbers is that they are highly variable, and depending on the availability of drift algal food (see Harrold and Reed 1985ⁱⁱⁱ) urchins can occur in extremely high densities and have little or no effect on associated biota. Moreover, it is the case that a certain amount of so-called barrens are a natural feature of healthy kelp bed systems (Foster and Schiel, 1985^{iv}). Rather than numbers and densities of sea urchins, a better trigger would be the impact of urchins on the surrounding community, in particular, the formation of macro algal-free zones or “barrens” and the sizes of these barrens in the Marine Conservation Area compared to a “healthy” kelp forest. Details of the extent of such zones in a particular Marine Conservation Area would need to be worked out in collaboration with the Department.

Management Details – Management details would include the species of urchins to be harvested and consideration of the need to harvest outside the current regulatory framework (size limits and seasons) . Red sea urchins above the legal size limit are the

primary species harvested, with purples rarely taken commercially, however in many instances in southern California, grazing by purple urchins and sublegal or unmarketable red urchins is mainly responsible for barrens formation. Any adaptive management of sea urchins would need to identify the species responsible for pulling the trigger and be able to target it for harvest/removal.

Deciding on what constitutes a significant reduction of macroalgal populations and how it would be detected and documented would need to be decided on collaboratively.

Quid Pro Quo – What would be the incentives on the part of the collaborators for such an arrangement. Depending on details, the Department could gain a cost-effective and sustainable monitoring system that could be expanded to Marine Reserves as well as Marine Conservation Areas. Collaborating monitors could also serve as the eyes and ears of the Department in what is a daunting and potentially very costly effort to monitor compliance with the MLPA. Commercial sea urchin divers would benefit from the ability to harvest from time to time in Marine Conservation Areas. Depending on their effectiveness and cost to the Department, such collaboration could lead to them being contractors for the State's MLPA monitoring

ⁱ Leighton, D.L. Grazing activities of benthic invertebrates in southern California, pp. 421-453. Beiheft zur Nova Hedwigia 32, Vverlag von j. Cramer, Lehre, Germany.

ⁱⁱ North, W.J. 1974. A review of the studies supporting sea urhin control as a means of restoring kelp beds. In W.J. North (principal investigator), Kelp Habitat Improvement Project Annual Report 1973-74, pp. 95-108. California Inst. Technology.

ⁱⁱⁱ Harrold, C., and D. Reed. 1985. Food availability, sea urchin grazing, and kelp forest community structure. Ecology

^{iv} Foster, M.S. and D.R. Schiel. 1985. The ecology of giant forests in California: A Community Profile. U.S. Fish and Wildlife Service Technical Report.

From: Albert Sopher
Sent: Sunday, August 01, 2010 10:22 PM
To: MLPAComments
Subject: Save our Ocean, Protect our Fishing Rights

Form details below.

Comments: I am writing to encourage you to NOT support MPA initiatives that close any ocean space to recreational use for the following reasons:

CALIFORNIA CONSTITUTION
ARTICLE 1 DECLARATION OF RIGHTS Section 25.

The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.

- Fish Stocks in this area have been sustainable without protection for years and will not significantly benefit from protection
- Closing fishing areas forces more concentrated fishing activity into areas with greater amounts of environmental impact
- Rocky Point, Point Loma, La Jolla, and recreational Ocean area have a long rich fishing history which is part of our local cultural heritage
- Closure of these areas would have a devastating financial effect on the local industries that depend on year-round revenues generated thru recreational and commercial fishing.
- Closure of existing MPA areas like in Long Beach have proven unsuccessful, as pollution has taken over.

I do NOT support the MLPA process and as such would NOT support ANY closures.

Thank you for your consideration